

July 16, 2020

Via ECFS

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

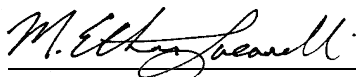
Re: Notice of *Ex Parte* Meeting
Expanding Flexible Use of the 3.7 to 4.2 GHz Band
GN Docket No. 18-122

Dear Ms. Dortch:

Pursuant to 47 C.F.R. § 1.1206, EchoStar Satellite Services, L.L.C. and Hughes Network Systems, LLC (collectively “EchoStar/Hughes”) and Inmarsat Inc. (jointly “Satellite Operators”) submit this notice of an *ex parte* meeting on July 14, 2020 in the above-referenced proceeding. Specifically, Jennifer A. Manner, Senior Vice President of Regulatory Affairs of EchoStar/Hughes and M. Ethan Lucarelli, Director, Regulatory and Public Policy of Inmarsat Inc. spoke with Erin McGrath, Legal Advisor to Commissioner O’Rielly via telephone to discuss the attached talking points. During the call, the Satellite Operators reiterated their support for the Petition of Eutelsat S.A. for Expedited Reconsideration or Clarification, and the positions taken in their Comments filed in this proceeding.¹

Please direct any questions regarding this matter to the undersigned.

Respectfully submitted,



M. Ethan Lucarelli
Director, Regulatory and Public Policy
Inmarsat Inc.
1441 L Street, NW
Suite 610
Washington, D.C. 20005

¹ See Comments of Satellite Operators on the Petition for Expedited Reconsideration or Clarification, GN Docket No. 18-122 (filed June 26, 2020).



The FCC Should Ensure Against FCC-Sanctioned Anti-Competitive Cross-Subsidization for Satellite Services in the United States and Abroad

- Inmarsat Inc., Hughes Network Systems, LLC and EchoStar Satellite Services L.L.C. (jointly, “Satellite Operators”) request that the FCC clarify, or reconsider as necessary, the *C-Band Order* to ensure that reimbursements to C-Band satellite operators are limited only to reasonable and necessary costs related to relocation of C-Band operations in the contiguous United States, and that reimbursed satellites are dedicated to serving only the contiguous United States and only in the C-Band for the entirety of their useful lives.
- The Satellite Operators understand the important public policy goals in the *C-Band Order*. We support the important role that the 3.7-4.0 GHz band will play in the US 5G future, and we appreciate the efforts the FCC is undertaking to ensure that existing C-Band users are able to ensure continued service.

We have no interest in delaying or hindering the C-Band transition in any way.

- However, the Commission should ensure that its actions do not inadvertently unbalance competition or disserve American consumers. Reimbursement payments should not be used as massive subsidies for satellite services in other frequency bands or in other areas.
- The satellite sector is more competitive than ever before. Satellite operators compete fiercely across frequency bands, orbital configurations and in many product and geographic markets. And, as the FCC’s most recent Competition Report demonstrates, satellite broadband competes with terrestrial offerings every day.
- The C-Band satellite operators should not be allowed to exploit guaranteed reimbursement (paid ultimately by US consumers) to subsidize the development, production, and launch of satellites operating in other frequency bands or other geographic areas while competitors without legacy C-Band operations are left to raise capital and accept risk according to usual commercial practices. C-Band operators are already benefiting from receiving replacement satellites with much longer (in some cases 15 years plus) useful lives than their current C-Band fleet.
- The FCC’s clear intent was that C-Band reimbursement payments be used for repacking users in the 4.0-4.2 GHz band in the contiguous United States. However, parts of the *C-Band Order* are ambiguous and are being read as allowing C-Band operators to include non-C-Band payloads on their new satellites, and use those satellites to serve areas outside the contiguous United States.
- In fact, the C-Band satellite operators have said explicitly that they intend to include other frequency bands and to serve other geographic areas with the satellites being built and launched with C-Band transition funds.

- Getting reimbursed for even a part of the construction, launch, and insurance costs of new broadband satellite would be a major windfall for a satellite operator, and result in subsidies that will harm competition inside and outside of the United States.
- The *Emerging Technologies* framework may need to be reinterpreted for the economics of the satellite sector. Unlike terrestrial wireless systems, where towers, rights of way, and backhaul may be reused in a technology transition, with incremental upgrades or replacement of RF components along the way, the design, bus construction, and launch of a geostationary satellite are a huge part of the costs of a satellite system, and must be done all over again with each satellite; costing hundreds of millions per satellite.
- Some who oppose Eutelsat's petition suggest that C-Band operators should be able to include additional payloads on their satellites and only pay the incremental additional costs associated with them. This would artificially lower their costs for competitive satellite services by spreading those costs among the consumers of C-Band 5G services.
- This subsidy by US 5G consumers will distort competition in the residential, government, enterprise, aviation, maritime, and other satellite broadband markets—in the USA and elsewhere—by making it difficult for other satellite operators to compete on cost. This clearly was not the intention of the Commission.
- The FCC is not funding a Ku- or Ka-Band transition here; accordingly, these operators should not be permitted to launch new satellites in those bands at a steep discount and at the expense of U.S. taxpayers.
- Eutelsat suggested the most straightforward solution: Reimbursement payments should only be used for satellites that include only C-Band payloads and that will only serve the contiguous United States throughout their life.
- If the FCC is going to permit reimbursement for hybrid satellites or satellites serving areas outside the contiguous USA, reimbursement should be limited to the costs necessary to facilitate the C-Band transition and should not distort competition in other bands or regions. This can be accomplished through the following approaches:
 - If an operator is going to launch a satellite serving other frequency bands, it should only be reimbursed for the incremental cost of adding C-Band to that system. No reimbursement should be given for aspects not related solely to providing services in the 4.0-4.2 GHz band in the contiguous United States.
 - Or, for shared costs of satellites including other bands or serving other regions, reimbursement should be based on the proportion of the total satellite bandwidth delivered to the contiguous United States in C-Band.
- This is a case of first impression for the Commission. It should adapt its policy appropriately to account for the specifics of the satellite sector and the very real anti-competitive conduct that can occur by allowing the subsidization of additional satellite capabilities in new bands or areas outside the contiguous United States.